IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.319 OF 2007

Commissioner of Income Tax, Aurangabad ..Appellant.

V/s.

Terna Shetkari Sahakari Sakhar Karkhana Ltd. ..Respondent.

Mr.B.M.Chatterjee with Ms.Poonam Bhosale for appellant.

Mr.S.N.Inamdar with A.K.Jasani for respondent.

CORAM : F.I.REBELLO AND J.P.DEVADHAR, JJ.

DATED : 25TH JULY, 2007.

P.C. :-

1. The Commissioner of Income Tax, Aurangabad has filed this appeal under 260A of the Income Tax Act, 1961 stating that the following question of law arise out of the order dated 15/4/2004 of the Tribunal.

> " Whether on the facts and in the circumstances of the case, the Tribunal relying upon the Bombay High Court's decision in the case of CIT V/s. Chatrapati SSK Ltd. (2000) (245 ITR 498) was right in law in deleting the following additions by holding that various funds / deposits collected by the assessee society out of sugarcane purchase price payable to the cane growers are not the trading receipts of the assessee as held by the Supreme Court in the case of Bazpur Co-operative Sugar Factory Ltd. (172 ITR 321) ?
>
> i) Hutment fund 2,84,869/-
>
> ii) C.M. relief fund 5,89,744/-

iii)	Flood relief fund	3,41,316/-
iv)	Small savings	5,69,744/-
v)	Cane development fund	22,05,729/-

2. Counsel on both sides agree that the question raised by the revenue is answered by the Apex Court in the case of **Sidheshwar Sahakari Sakhar Karkhana Ltd. V/s. C.I.T.** reported in **270 I.T.R. 1**.

3. Accordingly, the appeal is disposed of by remanding the issue relating to cane development to the I.T.A.T. for fresh consideration in the light of the decision of the Apex Court. As regards the other items are concerned, it is held that the same do not constitute trading receipts of the assessee.

4. Appeal is disposed of accordingly with no order as to costs.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)